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December 15, 2020

VIA E.C.F.

Hon. Analisa Torres, District Judge
 United States District Court
 500 Pearl Street
 New York, New York 10007-1312
 Torres_nysdchambers@nysd.uscourts.gov

**Re: Wausau Underwriters Insurance Company v. Hector Lopez and Cruz
 Orlando Raphael Santiago**
 Civil Action No.: 1:20-cv-7730

Dear Judge Torres:

My office represents Plaintiff, Wausau Underwriters Insurance Company ("Wausau"), with regard to the above-referenced matter. This case is scheduled for an Initial Pretrial Conference before Your Honor on **December 22, 2020 at 10:20 a.m.** I write to request an adjournment of that conference and related submission deadlines. This is the second listed date of the conference, and there has been one previous adjournment request by my office due to issues serving the defendants.

On November 4, 2020, Defendant Hector Santiago ("Santiago") was served with the Summons and Complaint. He has failed to file an answer or otherwise respond to the Complaint, and on December 15, 2020, I submitted a request for a certificate of default.

On November 11, 2020, counsel for the second Defendant, Cruz Orlando Raphael Lopez ("Lopez"), agreed to accept service on behalf of his client. However, counsel has not returned the signed waiver of service form despite numerous telephone and email requests. Counsel has also not filed an answer or otherwise responded to the Complaint on behalf of Lopez. Therefore, I have resumed efforts to personally serve Lopez. If those efforts are unsuccessful, I intend to move before this Court for an order permitting service by alternative means. Based on the foregoing circumstances, I respectfully submit that good cause exists to adjourn the initial conference and extend the time period for service upon this Defendant pursuant to Fed. R. Civ. P. 4(m).

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December 15, 2020
Page 2

Due to the default of Santiago and the state of service on Lopez, additional time is required before the Initial Pretrial Conference can proceed. By way of a more detailed explanation, Wausau filed its Complaint against Defendants on September 18, 2020, and the Court issued Summonses to Defendants on September 21, 2020. The Summons, Complaint, and a Notice of Lawsuit and Request to Waive Service of a Summons form were sent to each Defendant at their last known addresses on September 25, 2020. These documents were also sent to the attorneys representing Defendants in related Underinsured Motorist ("UIM") arbitrations. The parties did not return the Waiver of Service forms within the requested 35 days, and Wausau forwarded the Summonses and Complaints to a process server on November 3, 2020. Santiago was successfully served on November 4, 2020. Lopez has not been personally served to date due to a defective address on the first service attempt. On November 11, 2020, counsel for Santiago in the related UIM arbitration agreed to accept service on his behalf. On December 14, 2020, I forwarded the Summons and Complaint to a process server for a second attempt at personal service on Lopez and await those results.

Wausau has been diligent in attempting to serve the parties. However, additional time is required to allow the remaining defendant to respond to the Complaint and to engage in discussions in anticipation of an Initial Pretrial Conference. Based on the foregoing, I respectfully request that the December 22, 2020 conference be adjourned.

Respectfully submitted,

/s/ Evan D. Haggerty

Evan D. Haggerty

EDH/

cc: **Via Email and U.S. Mail**
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GRANTED. The conference scheduled for December 22, 2020 is ADJOURNED to **January 26, 2021**, at **10:00 a.m.** By **January 19, 2021**, the parties shall submit their joint letter and case management plan.

SO ORDERED.

Dated: December 16, 2020
New York, New York



ANALISA TORRES
United States District Judge